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3	IN THE UNITED STATES DISTRICT COURT
4	FOR THE DISTRICT OF ARIZONA
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6	Michael Houston Roberson,) No. CV 17-286-TUC-JAS (JR)
7	Petitioner, ORDER
8	VS.
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10	Warden, USP Tucson
11	Respondent.
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14	Pending before the Court is a Report and Recommendation issued by United States
15	Magistrate Judge Rateau that recommends denying Petitioner's habeas petition filed
16	pursuant to 28 U.S.C. §2241.¹ Petitioner has not filed any objections and the time to do
17	so has expired. The Report and Recommendation is adopted.
18	To the extent a certificate of appealability must issue before Petitioner can appeal, ² it is
19	denied. See 28 U.S.C. §2253(c) and Fed. R. App. P. 22(b)(1). Federal Rule of Appellate
20	Procedure 22(b) requires the district court that rendered a judgment denying the petition to
21	"either issue a certificate of appealability or state why a certificate should not issue."
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23	¹ The Court reviews de novo the objected-to portions of the Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court reviews for clear error the unobjected-

to portions of the Report and Recommendation. Johnson v. Zema Systems Corp., 170 F.3d 734,

27 See Porter v. Adams, 244 F.3d 1006 (9th Cir. 2001).

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^{739 (7}th Cir. 1999); see also Conley v. Crabtree, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

² Although Petitioner has brought his claims in a § 2241 petition, a certificate of appealability is required where a § 2241 petition attacks the petitioner's conviction or sentence.

1	Additionally, 28 U.S.C. §2253(c)(2) provides that a certificate may issue "only if the
2	applicant has made a substantial showing of the denial of a constitutional right." In the
3	certificate, the court must indicate which specific issues satisfy this showing. See 28
4	U.S.C. §2253(c)(3). A substantial showing is made when the resolution of an issue of
5	appeal is debatable among reasonable jurists, if courts could resolve the issues differently,
6	or if the issue deserves further proceedings. See Slack v. McDaniel, 529 U.S. 473, 484-85
7	(2000). Upon review of the record in light of the standards for granting a certificate of
8	appealability, the Court concludes that a certificate shall not issue as the resolution of the
9	petition is not debatable among reasonable jurists and does not deserve further proceedings.
11	Accordingly, IT IS HEREBY ORDERED as follows:
12	(1) The Report and Recommendation (Doc. 21) is accepted and adopted.
13	(2) Petitioner's §2241 habeas petition is denied; this case is dismissed with prejudice.
14	(3) A Certificate of Appealability is denied and shall not issue.
15	(4) The Clerk of the Court shall enter judgment accordingly and close the file in this matter.
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17	Dated this 23rd day of April, 2019.
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21	Honorable James A. Soto United States District Judge
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